



CITY OF SAN JOSÉ, CALIFORNIA

MINUTES OF THE CITY COUNCIL

SAN JOSÉ, CALIFORNIA

TUESDAY, AUGUST 30, 2005

The Council of the City of San José convened in regular session at 9:30 a.m. in the Mayor's Conference Room T1841, at City Hall.

Present: Council Members - Campos, Chavez, Chirco, Cortese, LeZotte, Pyle, Reed, Williams, Yeager.

Absent: Council Members - Gonzales. (Excused)

Upon motion unanimously adopted, Council recessed at 9:32 a.m. to a Closed Session in Room T1841, (A) to confer with Legal Counsel with respect to existing litigation pursuant to Government Code Section 54956.9 Subsection (a) to consider the case(s) of (1) Tran, et al. v. City of San José; (2) Mendez, et al. v. City of San José, et al.; (3) Varela v. City of San José, et al. (B) Conference with Labor Negotiator pursuant to Government Code Section 54957.6, City Negotiator: City Manager designee Alex Gurza, and the following Employee Organizations: (1) San José Police Officers' Association; (2) International Association of Firefighters; (3) Confidential Employees Organization.

By unanimous consent, Council reconvened from the Closed Session and recessed at 10:50 a.m. and reconvened at 1:32 p.m. in the Council Chambers.

Present: Council Members - Campos, Chavez, Chirco, Cortese, LeZotte, Pyle, Reed, Williams, Yeager; Gonzales.

Absent: Council Members - None.

INVOCATION

Senior Pastor Tony Williams, Maranatha Christian Center, presented the invocation. (District 7)

PLEDGE OF ALLEGIANCE

Mayor Gonzales led the Pledge of Allegiance.

ORDERS OF THE DAY

Upon motion by Vice Mayor Chavez, seconded by Council Member Pyle and carried unanimously, The Orders of the Day and the Amended Agenda were approved. (10-0.)

CEREMONIAL ITEMS

1.1 Presentation of a commendation to John Boncher, Chief Operating Officer and President of Cupertino Electric for their contributions to the local economy. (Mayor/Chavez)

Action: Mayor Gonzales and Vice Mayor Chavez recognized Mr. John Boncher, Chief Operating Officer and President of Cupertino Electric, for their contributions to the local San José economy.

1.2 Presentation of a commendation to the Friends of the Guadalupe River Park and Gardens in recognition of the grand opening of the Guadalupe River Park on September 10, 2005. (Chavez/Yeager)

Action: Mayor Gonzales, Vice Mayor Chavez and Council Member Yeager commended the Friends of the Guadalupe River Park and Gardens in recognition of all of their hard work and in honor of the grand opening of the Guadalupe River Park on September 10, 2005.

**1.3 Presentation of a commendation to Kaiser Permanente for its contributions to the City of San José in the field of health in relation to their innovative Farmers' Market Program that was awarded the 2005 Ellis J. Bonner Community Leadership Award by America's Health Insurance plans. (Williams)
(Rules Committee referral 8/17/05)**

Action: Mayor Gonzales and Council Member Williams recognized Kaiser Permanente for its contributions to the City of San José in the field of health care for their innovative Farmers' Market Program.

**1.4 Presentation of a proclamation celebrating August 28, 2005 as San José Fire Department's 10 year Anniversary for providing Advanced Life Support Services to the residents of San José. (Mayor)
(Rules Committee referral 8/17/05)**

Action: Mayor Gonzales presented a proclamation to Deputy Fire Chief Nicolas Thomas in honor of the San José Fire Department's 10 year Anniversary for providing Advanced Life Support Services to the residents of San José.

- 1.5 Presentation of an award by representatives from the Department of Defense/Employer Support of the Guard and Reserve (ESGR) and signing of the Five Star Statement of Support by the Mayor of the City's nomination to receive the Freedom Award. (Mayor)**
(Rules Committee referral 8/17/05)

Action: Mayor Gonzales invited Officers from the Police Department to the podium: Pete Lovecchio, Brian Christian, Brett Linden (currently on active duty), Margie Thompson, Geeno Gular, John Rusyn, Mark Alvares, Richard Mizgorski and Tammy Kimbrel; representatives from the ESGR, John J. Woolley, Vice Chairman, and James D. Franklin, Regional Director; and Assistant City Manager Mark Linder, Police Chief Robert Davis, Fire Chief Jeffrey Clet (who was not present), Director of Employee Relations Alex Gurza, Don DeMers, POA President, Council Member Reed and Vice Mayor Chavez. Mr. Woolley presented the City of San José with an award from the ESGR honoring the City for all its great accomplishments. Mayor Gonzales signed the Five Star Statement of Support of the City of San José's nomination to receive the Freedom Award.

- 1.6 Presentation of a commendation to Presentation High School in recognition of their outstanding commitment to women's athletics and education through the construction and dedication of new sports fields and aquatic facilities on their campus. (Yeager)**
(Rules Committee referral 8/17/05)

Action: Mayor Gonzales and Council Member Yeager presented a commendation to Presentation High School in recognition of their outstanding commitment to women's athletics and education through the construction and dedication of new sports fields and aquatic facilities on the campus.

- 1.7 Presentation of a commendation to the Salvation Army for providing all the necessary back to school materials to over 750 San José children for the 2005-2006 school year. (LeZotte)**
(Rules Committee referral 8/24/05)

Action: Mayor Gonzales, Council Member LeZotte and Vice Mayor Chavez recognized and commended the Salvation Army for helping over 1,000 underprivileged children. Mayor Gonzales presented a plaque to Major Tollerud.

- 1.9 Presentation of a commendation to Martin Renteria for his invaluable leadership in the Tully-Senter Neighborhood. (Mayor/District 7)**

Action: Mayor Gonzales recognized and commended Mr. Martin Renteria for his invaluable leadership in the Tully-Senter Neighborhood.

CONSENT CALENDAR

Upon motion by Council Member Williams, seconded by Council Member Reed, and carried unanimously, the Consent Calendar was approved and the below listed actions were taken as indicated. (9-0-1. Absent: Chavez.)

2.1 Approval of Minutes.

- (a) **Regular Minutes of February 8, 2005**
- (b) **Regular Minutes of February 15, 2005**
- (c) **Minutes of the Joint Meeting of the City Council, Redevelopment Agency Board and the Santa Clara Valley Water District Board of February 15, 2005**
- (d) **Minutes of the Joint San José City Council and Redevelopment Agency Board of February 15, 2005**

Documents Filed: The Regular Minutes dated February 8, and February 15, 2005, the Minutes of the Joint Meeting of the Council, Redevelopment Agency and Santa Clara Valley Water District dated February 15, 2005, and Minutes of the Joint Council and Redevelopment Agency dated February 15, 2005.

Action: The Minutes were approved. (9-0-1. Absent: Chavez.)

2.2 (a) **ORD. NO. 27515 – Rezoning certain real property located on the southeasterly corner of Piercy Road and Silver Creek Valley Place (5815 Silver Creek Valley Place) to A(PD) Planned Development Zoning District. PDC05-045**

Documents Filed: Proof of Publication of the title of Ordinance No. 27515 executed on August 23, 2005, submitted by the City Clerk.

Action: Ordinance No. 27515 was adopted. (9-0-1. Absent: Chavez.)

(b) **ORD. NO. 27516 – Rezoning certain real property situated at the northeast corner of Almaden Avenue and West Alma Avenue (1390 Almaden Avenue) to A(PD) Planned Development Zoning District. PDC05-019**

Documents Filed: Proof of Publication of the title of Ordinance No. 27516 executed on August 23, 2005, submitted by the City Clerk.

Action: Ordinance No. 27516 was adopted. (9-0-1. Absent: Chavez.)

- 2.2 (c) **ORD. NO. 27517 – Rezoning certain real property situated on the north side of Fleming Avenue approximately 350 feet east of Fourier Drive (1238 Fleming Avenue) to A(PD) Planned Development Zoning District. PDC05-015**

Documents Filed: Proof of Publication of the title of Ordinance No. 27517 executed on August 23, 2005, submitted by the City Clerk.

Action: Ordinance No. 27517 was adopted. (9-0-1. Absent: Chavez.)

- (d) **ORD. NO. 27518 – Rezoning certain real property situated on the southwest side of Park Avenue approximately 150 feet northwest of Emory Street (1819 Park Avenue) to CN – Commercial Neighborhood Zoning District. C05-065**

Documents Filed: Proof of Publication of the title of Ordinance No. 27518 executed on August 23, 2005, submitted by the City Clerk.

Action: Ordinance No. 27518 was adopted. (9-0-1. Absent: Chavez.)

- (e) **ORD. NO. 27519 – Rezoning certain real property situated on the east side of Senter Road, approximately 200 feet northwesterly of Quinn Avenue (2266 Senter Road) to LI(PD) Planned Development Zoning District. PDC04-111**

Documents Filed: Proof of Publication of the title of Ordinance No. 27519 executed on August 23, 2005, submitted by the City Clerk.

Action: Ordinance No. 27519 was adopted. (9-0-1. Absent: Chavez.)

- (f) **ORD. NO. 27520 – Rezoning certain real property situated southeast side of Elwood Drive approximately 100 feet southerly of Nikette Way to A(PD) Planned Development Zoning District. PDC04-059**

Documents Filed: Proof of Publication of the title of Ordinance No. 27520 executed on August 23, 2005, submitted by the City Clerk.

Action: Ordinance No. 27520 was adopted. (9-0-1. Absent: Chavez.)

- 2.3 **Acceptance of the finding reports from Kafoury, Armstrong & Company, LLP for the quarters ending December 31, 2004 and March 31, 2005, relating to the Bay 101 Unconditional Approval of Stock Transfer. (City Auditor)
(Rules Committee referral 8/17/05)**

Documents Filed: Memorandum from City Auditor Gerald Silva, dated August 10, 2005, transmitting the reports.

Action: The reports were accepted. (9-0-1. Absent: Chavez.)

2.4 Approval of an agreement with H.T. Harvey & Associates to provide land use planning consultant services for the San José/Santa Clara Water Pollution Control Plant, including salt pond A18, in an amount not to exceed \$300,000, for a term from September 1, 2005 to August 31, 2009. CEQA: Not a Project. Environmental Services)

Documents Filed: (1) Memorandum from Director of Environmental Services Carl Mosher, dated August 10, 2005, recommending approval of the agreement. (2) Letter from the Treatment Plant Advisory Committee, dated August 8, 2005, stating concurrence with the Staff recommendation.

Action: The agreement with H.T. Harvey & Associates was approved. (9-0-1. Absent: Chavez.)

- 2.5 (a) Adoption of a resolution accepting additional grant funding for the 21st Century Community Learning Centers, and authorizing the City Manager to negotiate and execute continuation grant agreements with the YMCA, Cross-Cultural Community Services, San José After School All Stars and the Boys and Girls Club, to increase compensation by \$352,665, for a total grant amount of \$1,645,665, and extending the term of the agreements to December 30, 2005. CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)**
- (b) Adoption of the following appropriation ordinance and funding sources resolution amendments in the General Fund:**
- (1) Increase Earned Revenue estimate by \$352,665;**
 - (2) Increase the California 21st Century Community Learning Centers Core Grant appropriation (#3266) by \$256,131;**
 - (3) Establish the California 21st Century Community Learning Centers Core Grant B for \$87,877; and**
 - (4) Increase the California 21st Century Community Learning Centers Core Grant C appropriation (#3329) by \$8,657.**
- CEQA: Not a Project. (Parks, Recreation and Neighborhood Services)**

Documents Filed: (1) Memorandum from Director of Parks, Recreation and Neighborhood Services Sara Hensley, dated August 10, 2005, recommending adoption of a resolution. (2) Supplemental memorandum from Director Hensley providing appropriation amendments.

Action: Resolution No. 72869, entitled: “A Resolution of the Council of the City of San José Accepting Additional Grant Funding for the 21st Century Community Learning Centers and Authorizing the City Manager to Negotiate and Execute Continuation Grant Agreements to Increase the Compensation in an Aggregate Amount Not To Exceed \$352,665, and to Extend the Term of the Agreements to December 30, 2050”; Ordinance No. 27529 and Resolution No. 72870, were adopted. (9-0-1. Absent: Chavez.)

- 2.6 Adoption of a resolution ordering the reorganization of territory designated as McKee No. 128 which involves the annexation to the City of San José of 1.19 acres of land more or less, located at the on the east side of Kirk Avenue, approximately 110 feet southerly of Summit Avenue and adjacent to the City of San José annexations McKee Nos. 117 and 40 and the detachment of the same from Central Fire Protection, Area No.01 (Library Services) County Services and Sanitation District 2-3. CEQA: GP2020 EIR, Resolution No. 65459, File No. C04-090. Council District 5. (Planning, Building and Code Enforcement)**

Documents Filed: Memorandum from Director of Planning, Building and Code Enforcement Stephen Haase, dated August 10, 2005, recommending adoption of a resolution.

Action: Resolution No. 72871 was adopted. (9-0-1. Absent: Chavez.)

- 2.7 Adoption of a resolution to consider the establishment of combination Rule 20A/In-Lieu Fee (Rule 20B) Underground Utility District on Taylor Street from First Street to Tenth Street; Jackson Street from Seventh Street to Ninth Street; Seventh Street from Jackson Street to Taylor Street; and Sixth Street from Taylor Street to Empire Street, and setting a public hearing on September 27, 2005 at 1:30 p.m. CEQA: Exempt, PP05-148. Council District 3. (Public Works)**

Documents Filed: Memorandum from Director of Public Works Katy Allen, dated August 10, 2005, recommending adoption of a resolution.

Action: Resolution No. 72872, entitled: "A Resolution of the Council of the City of San José Setting the Time and Place for a Public Hearing to Consider the Establishment of Combination Rule 20A/In-Lieu Fee (Rule 20B) Underground Utility District on Taylor Street; Jackson Street from Seventh Street to Ninth Street; Seventh Street from Jackson Street to Taylor Street; and Sixth Street from Taylor Street to Empire Street, on September 27, 2005 at 1:30 p.m.", was adopted. (9-0-1. Absent: Chavez.)

- 2.8 Report on bids and take appropriate action based on the evaluation of bids for the Capitol Park Neighborhood Center Project, and approval of a five percent contingency. CEQA: Exempt, PP03-08-267. Council District 5. SNI: East Valley/680 Communities. (Public Works/Parks, Recreation and Neighborhood Services) (Deferred from 8/23/05 – Item 2.9)**

Action: Deferred to September 13, 2005.

END OF CONSENT CALENDAR

STRATEGIC SUPPORT SERVICES

3.1 (a) Study Session on Jobs, Housing and Transportation Policy Updates for Downtown, North San José and Transit Corridors Study Session, dated February 14, 2005.

Documents Filed: The Study Session Minutes on Jobs, Housing and Transportation Policy Updates for Downtown, North San José and Transit Corridors, dated February 14, 2005.

Action: The Minutes were approved. (9-0-1. Absent: Chavez.)

3.2 Report of the Rules Committee – August 17, 2005 Vice Mayor Chavez, Chair

Documents Filed: The Rules Committee Report dated August 17, 2005.

(a) Redevelopment Agency items reported out at Redevelopment Agency meeting

(b) City Council

(1) Review August 30, 2005 Council Agenda

The Committee recommended approval of the August 30, 2005 City Council Agenda with nine additions.

(2) Add New Items to August 23, 2005 Council Agenda

The Committee recommended approval of three additions to the August 23, 2005 City Council Agenda.

(3) List of Reports Outstanding

The Committee noted and filed the City Manager's Report.

(c) Legislative Update

(1) State - There were none.

(2) Federal - There were none.

(d) Meeting Schedules - There were none.

(e) The Public Record. Attachment: Memorandum from City Clerk Lee Price, dated August 11, 2005, transmitting items for public record for the period of August 3-9, 2005.

The Committee noted and filed the Public Record.

3.2 Report of the Rules Committee – August 17, 2005 (Cont'd.)
Vice Mayor Chavez, Chair

(f) Appointments to Boards, Commissions and Committees

There were none.

(g) Rules Committee Reviews, Recommendations and Approvals

- (1) Revision of Definition of Surviving Child. Attachment: (1) Memorandum from Federated City Employees' Retirement System Secretary Edward Overton, dated August 11, 2005, recommending approval of the request. (2) Memorandum from Director of Employee Relations Alex Gurza, dated August 15, 2005, transmitting additional information.

The Committee recommended that the revisions to the Definition of Surviving Child return to the Rules Committee in one month for a review of the outcome of the negotiations with the bargaining groups. At that time, the Committee will forward the item to the City Council for action.

- (2) Megan's Law Registry Changes. Attachment: Memorandum from Council Member Reed, dated August 8, 2005, directing Staff to analyze and provide a recommendation.

The Committee recommended that the Police Department, Housing Department and the City Attorney's Office prepare an analysis on Assembly Bills 438 and 1323 and report back to the Rules Committee in two weeks.

- (3) Approval of Travel by Council Member LeZotte to Denver, Colorado
(4) Approval of Travel by Mayor Gonzales to Denver, Colorado. Attachment: (1) Memorandum from Council Member LeZotte, dated August 5, 2005, requesting authorization to travel. (2) Memorandum from Mayor Gonzales, dated August 17, 2005, requesting approval of travel. (3) Memorandum from City Clerk Lee Price, dated August 17, 2005, transmitting record of the Mayor/Council Fund.

The Committee recommended approval to travel and use of the Mayor and Council Travel Fund.

(h) Oral Communications - There were none.

(i) Adjournment - The meeting was adjourned at 2:35 p.m.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Reed and carried unanimously, The Report of the Rules Committee and the Actions of August 17, 2005, were approved. (10-0.)

- 3.4 Approval of City Council response to Grand Jury Report regarding the Norcal Recycle Plus Agreement. (City Manager/City Attorney)
(Rules Committee referral 8/10/05 and 8/17/05)
(Deferred from 8/16/05 – Item 3.4)**

Action: Deferred to September 13, 2005.

- 3.5 Acceptance of the Independent Investigator's Status Report on the review of issues associated with the Norcal garbage contract and contract amendment. (City Auditor)
(Rules Committee referral 8/10/05 and 8/17/05)**

Action: Deferred to September 13, 2005.

- 3.6 (a) Authorizing the issuance of San José - Santa Clara Clean Water Financing Authority Sewer Refunding Revenue Bonds, Series 2005A (tax-exempt fixed rate) in a not to exceed amount of \$65,000,000; and Series 2005B (tax-exempt variable rate) in a not to exceed amount of \$30,000,000, (collectively the "Bonds").**
- (b) Approving in substantially final form and authorizing the execution, as applicable, of the Second Amendment to the Improvement Agreement, two Preliminary Official Statements, two final Official Statements, Master Indenture, First Supplemental Indenture, Second Supplemental Indenture, Continuing Disclosure Agreement, Standby Bond Purchase Agreement, one or more Escrow Agreements, Financial Guaranty Agreement, Bond Purchase Agreement, Remarketing Agent Agreement, one or more Payoff Agreements with Tributary Agencies and authorizing the City Manager, Director of Finance or their designees to execute and, as appropriate, to negotiate and deliver these documents and other related financing documents and to take other actions as necessary in connection with the issuance of the Bonds.**
- (c) Authorizing the City Attorney to negotiate and execute an Agreement with Nixon Peabody LLP for bond and disclosure counsel services in an amount not to exceed \$175,000.**

CEQA: Not a Project. (Finance/Environmental Services)

Action: Deferred to September 13, 2005.

- 3.7 (a) Adoption of a resolution as follows:**
- (1) Authorizing the Director of Finance to negotiate and execute a five year agreement with four, one-year options to renew with Kubra (Torrance, CA) to provide all services for Utility Bill Printing, Mailing, E-Presentment, E-Payment and Remittance Services for various utility services, with a first-year compensation not to exceed \$938,726.40 inclusive of all start-up, transaction and maintenance costs, and applicable sales taxes.**
 - (2) Authorizing the Director of Finance to execute change orders not-to-exceed \$100,000 to cover expenses for unanticipated implementation costs and/or additional costs associated with increases in transaction volumes or required services**
 - (3) Authorizing the Director of Finance to execute compensation adjustments for years two through five of the initial term, without further Council action other than the approval of necessary funding.**
 - (4) Authorizing the Director of Finance to negotiate and execute an amendment to the agreement for an Integrated CIS and Hauler Management System between the City of San José and BearingPoint, Inc., to integrate the recommended vendor's solution for Document Printing, Mailing, E-Presentment, E-Payment and Remittance Services with the Consolidated Utility Billing System, increasing the total maximum compensation by \$195,576 for a total maximum compensation not to exceed \$4,657,182 (including previously approved contract contingency).**
- (b) Adoption of the following 2005-2006 appropriation ordinance and funding sources resolution amendments:**
- (1) Increase the estimate for Earned Revenue in the Integrated Waste Management Fund by \$13,096.**
 - (2) Increase the CUSP Project appropriation in the Integrated Waste Management Fund by \$13,096.**
 - (3) Increase the Non-Personal/Equipment appropriation in the Environmental Services Department in the Integrated Waste Management Fund by \$313,572.**
 - (4) Decrease the Ending Fund Balance in the Integrated Waste Management Fund by \$313,572.**

**CEQA: Not a Project. (Finance/City Manager's Office)
(Rules Committee referral 8/24/05)**

Documents Filed: (1) Memorandum from Director of Finance Scott Johnson and Budget Director Larry Lisenbee, dated August 25, 2005, recommending adoption of a resolution, and appropriation ordinance and funding sources resolution amendments. (2) Staff slide presentation of Consolidated Utility Billing System, dated August 230, 2005.

Director of Finance Scott Johnson presented an in-depth overview of the Consolidated Utility Billing System and responded to questions from Mayor Gonzales regarding Consumer Education.

3.7 (Cont'd.)

Extensive Council questions followed about the cost-benefit analysis, on-line services, future functionality, performance measures and opportunities for customers to make contributions to support charitable organizations.

Public Comment: Ross Signorino suggested using public notices in the newspaper to get the word out.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member LeZotte and carried unanimously, Resolution No. 72873, entitled: "A Resolution of the Council of the City of San José Authorizing the Director of Finance to Negotiate and Execute Agreements Related to Utility Bill Printing Services"; Ordinance No. 27530 and Resolution No. 72874, were adopted, with Staff directed to: (1) Work with the Healthy Neighborhood Venture Fund Committee to develop a strategy for community donations. (2) Look at Working Assets Framework. (3) Prepare a method for benchmarking cost effectiveness. (4) Focus on customer service and consider working with focus groups in the design and format of the bill and to ensure the needs of customers are being met. (10-0.)

COMMUNITY & ECONOMIC DEVELOPMENT

- 4.3 Adoption of an ordinance repealing the provisions pertaining to gasoline service station combined uses; amending land use regulations pertaining to off-sales of alcoholic beverages to set forth elements for consideration in a liquor license exception process and to amend the location criteria for off-sales of alcoholic beverages uses; and amendments to distinguish off-sale of beer and wine uses from off-sale of all types of alcohol uses. (Planning, Building and Code Enforcement)
(Referred from 6/14/05 – Item 4.5)
(Rules Committee referral 8/17/05)**

Action: Deferred to September 27, 2005.

- 4.5 (a) Adoption of a resolution authorizing the City Manager to negotiate and execute a grant agreement with Elite Racing, Inc. for a Rock 'n' Roll Half Marathon within the City of San José on Sunday October 8, 2006, in an amount not to exceed \$180,500.**
(b) Adoption of a resolution authorizing the City Manager to negotiate and execute a grant agreement with Silicon Valley Sports and Entertainment for parking for the Rock 'n' Roll Half Marathon within the City of San José on Sunday October 8, 2006, in an amount not to exceed \$7,500.
**CEQA: Exempt, PP05-170. (Economic Development)
(Rules Committee referral 8/24/05)**

Documents Filed: Replacement memorandum from Director of Economic Development Paul Krutko, dated August 25, 2005, recommending adoption of a resolution.

4.5 (Cont'd.)

Public Comment: Dean Munro, San José Sports Authority and Dan Fenton, San José Convention Center/Team San José, spoke in favor of the recommendation. Mark Trout spoke in opposition.

Action: Upon motion by Vice Mayor Chavez, seconded by Council Member Yeager and carried unanimously, Resolution No. 72875, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute an Agreement with Elite Racing, Inc. for the Rock N Roll Marathon in an Amount Not To Exceed \$180,000 and with Silicon Valley Sports and Entertainment for Parking for the Rock N Roll Marathon in an Amount Not To Exceed \$7,500”, was adopted, with Staff directed to: (1) Ensure live music at every one mile mark. (2) Coordinate activities with the Downtown Association. (10-0.)

TRANSPORTATION & AVIATION SERVICES

- 6.2 Report on bids and award contract for the Norman Y. Mineta San José International Airport-USO/Parking Revenue Control Modular Offices (Revised) contract to the lowest responsive bidder, Pacific Mobile Structures, Inc. in the amount of \$675,427.33, and approval of a contingency in the amount of \$68,000. CEQA: Resolutions No. 67380 and 71451, PP 05-075. (Public Works/Airport)**

Action: Deferred to September 27, 2005.

- 6.3 Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with Union Pacific Railroad for public access and a temporary construction easement across/under a railroad crossing within the Guadalupe River Park Project, generally lying at the Union Pacific Railroad track Number 4, approximately 900 feet south of Coleman Avenue. CEQA: Resolution No. 71373. (City Manager's Office)
(Orders of the Day)**

Documents Filed: Memorandum from Deputy City Manager Ed Shikata, dated August 26, 2005, recommending adoption of a resolution.

Action: Upon motion by Council Member Campos, seconded by Council Member Pyle and carried unanimously, Resolution No. 72876, entitled: “A Resolution of the Council of the City of San José Authorizing the City Manager to Negotiate and Execute a License Agreement with Union Pacific Railroad for Public Access and Interim Construction Authorization for the Guadalupe River Park Project”, was adopted. (10-0.)

ENVIRONMENTAL & UTILITY SERVICES

- 7.1 (a) Public Hearing on the Recycle Plus program rate increases effective August 1, 2005, and on potential increases for Fiscal Years 2006-07 and 2007-08.**
- (b) Adoption of a resolution revising Recycle Plus rates for integrated waste management services beginning August 1, 2005, increasing single-family rates by approximately 3% and multi-family rates by approximately 2%.**

CEQA: Not a Project. (City Manager's Office/Environmental Services)

[Continued from 6/21/05 - Item 10.1 (a) and (b)]

Action: Continued Public Hearing to October 18, 2005.

JOINT COUNCIL/REDEVELOPMENT AGENCY

- 9.1 Approval of 4th Street Garage and Downtown Parking Alternatives. (Mayor)**
(Rules Committee referral 8/17/05)

Action: Dropped.

OPEN FORUM

- (1) Robert Apgar, Jr. expressed personal relationship issues.
- (2) George Gillis requested that the recently increased membership fees be lowered at the Camden Senior Center, because it is a hardship on Seniors.
- (3) Mark Trout expressed his own religious beliefs.
- (4) Ross Signorino pointed out that there should be more security measures in the New City Hall parking garage.

RECESS/RECONVENE

The City Council recessed at 4:02 p.m. from the City Council afternoon session and reconvened at 7:04 p.m. in the Council Chambers, City Hall.

Present: Council Members - Campos, Chavez, Cortese, LeZotte, Pyle, Reed, Yeager.

Absent: Council Members - Chirco, Williams; Gonzales. (Excused)

CEREMONIAL ITEMS

- 1.8 Presentation of a commendation to Robert Latimore for rescuing tenants during an apartment building fire that occurred within his neighborhood on South 12th Street. (Chavez)
(Rules Committee referral 8/24/05)**

Action: Vice Mayor Chavez recognized and commended Mr. Robert Latimore for his heroic efforts for rescuing tenants during an apartment building fire that occurred within his neighborhood.

PUBLIC HEARINGS ON CONSENT CALENDAR

Public Comment: Vice Mayor Chavez opened the public hearing. There was no testimony from the floor. Vice Mayor Chavez closed the public hearing.

Upon motion by Council Member Pyle, seconded by Council Member Cortese, and carried unanimously, the Public Hearings Consent Calendar was approved and the below listed actions were taken as indicated. (7-0-3. Absent: Chirco, Williams; Gonzales.)

- 11.1 (a) Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning from R-M Multiple Residence Zoning District to A(PD) Planned Development Zoning District Rezoning to allow six single-family attached residences in an existing building on a gross 0.17 acre site, located on the east side of 10th Street, approximately 150 feet south of San Salvador Street (422 S. 10th Street) (José and Patricia Amaya, Owner). SNI: University. CEQA: Exempt.
PDC05-025 - District 3
(Continued from 8/16/05 – Item 11.5)**

Action: Continued to September 20, 2005.

- 11.1 (b) **Public Hearing on and consideration of approval of an ordinance on a Planned Development Rezoning from R-1-8 Residential Zoning District to A(PD) Planned Development Zoning District to allow up to 11 detached single-family patio homes on a 0.75 gross acre site, located at/on the eastside of Almaden Road, approximately 680 feet northerly of Curtner Avenue (2190 Almaden Road) (Dennis Mulvihill, Owner). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommends approval (6-0-1).
PDC03-047 – District 6**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC03-047, dated June 15, 2005, recommending approval on the subject property. (2) Memorandum from Secretary of Planning Commission Stephen Haase, dated July 26, 2005, transmitting the Planning Commission recommendation of the subject property. (3) Proof of Publication of Notice of Public Hearing, executed on August 19, 2005, submitted by the City Clerk.

Action: The recommendation of the Planning Commission and the Planning Director was approved, and Ordinance No. 27531, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated on the East Side of Almaden Road Approximately 680 Feet Northerly of Curtner Avenue (2190 Almaden Road) to A(PD) Planned Development Zoning District”, was passed for publication. (7-0-3. Absent: Chirco, Williams; Gonzales.)

- (c) **Public Hearing on and consideration of approval of an ordinance on Conforming Conventional Rezoning from A(PD) Planned Development Zoning District to CN Commercial Neighborhood Zoning District to allow commercial uses on a 2.3 gross acre site, located approximately 190’ easterly of the intersection of Blossom Hill Road and Poughkeepsie Road (120 Blossom Hill Road) (Gavilan Plaza, Owner). CEQA: Exempt. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.
C05-069 - District 2**

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C05-069, dated August 11, 2005, recommending approval on the subject property. (2) Proof of Publication of Notice of Public Hearing, executed on August 19, 2005, submitted by the City Clerk.

Action: The recommendation of the Planning Commission and the Planning Director was approved, and Ordinance No. 27532, entitled: “An Ordinance of the City of San José Rezoning Certain Real Property Situated Approximately 190 Feet Easterly of the Intersection of Blossom Hill Road and Poughkeepsie Road to CN Commercial Neighborhood Zoning District”, was passed for publication. (7-0-3. Absent: Chirco, Williams; Gonzales.)

END OF PUBLIC HEARINGS CONSENT CALENDAR

PUBLIC HEARINGS

11.2 Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning from IP Industrial Park Zoning District to A(PD) Planned Development Zoning District to allow up to 109 single-family attached residences and the demolition of existing industrial buildings on a 4.0 gross acre site, located on the northeast corner of Autumnvale Drive and Trade Zone Blvd. (2450 Autumnvale Dr.) (Autumnvale Associates, Inc., Adams Capital Management Co. Edwin Kawamoto, Owner). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement recommends approval with Planning Commission modifications. Planning Commission recommends approval of the proposed rezoning with the conditions recommend in the staff report with the following revisions (4-2-1-0):

- (a) Modify the proposed Development Standards to eliminate the 10% reduction in the parking requirement to require that parking be provided at a rate of 2.7 spaces per unit (versus 2.4 spaces per unit).**
- (b) Require that private yards be provided according to the Residential Design Guideline standards for Garden Townhomes of 300-square foot per unit.**

PDC04-109 - District 4

(Continued from 8/16/05 – Item 11.8)

Action: Continued to September 13, 2005, per Applicant's request.

11.3 Public Hearing on and consideration of approval of an ordinance on Planned Development Rezoning from R-1-8 Residence District to A(PD) Planned Development Rezoning to allow 10 single-family detached residences on a 1.0 gross acre site, located at/on the west side of Delmas Avenue, approximately 170 feet north of Dorothy Avenue (1203 Delmas Ave.) (Greg Schatzel, Owner). CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval (5-1-1).

PDC04-099 - District 6

(Continued from 8/16/05 – Item 11.11)

Documents Filed: (1) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC04-099, dated August 2, 2005, recommending approval on the subject property. (2) Memorandum from Secretary of Planning Commission Stephen Haase, dated August 11, 2005, transmitting the Planning Commission recommendation of the subject property. (3) Memorandum from Planning Commission Secretary Stephen Haase, dated August 5, 2005, transmitting additional information.

Public Comment: Vice Mayor Chavez opened the public hearing. Harvey Darnell and Erik Schoennauer spoke in favor of the Staff recommendation. Vice Mayor Chavez closed the public hearing.

11.3 (Cont'd.)

Action: Upon motion by Council Member Yeager, seconded by Council Member Pyle, and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, and Ordinance No. 27533, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the West Side of Delmas Avenue Approximately 170 Feet North of Dorothy Avenue (1203 Delmas Avenue) to A(PD) Planned Development Zoning District", was passed for publication. (7-0-3. Absent: Chirco, Williams; Gonzales.)

11.4 **Public Hearing on and consideration of approval of an ordinance on a Conforming Conventional Rezoning from the R-1-8 Single-Family Residence District to the R-M Multiple Residence District to allow for multi-family residential uses on a 0.13 gross acre site, located on the northerly side of Michigan Avenue, approximately 200 feet southwest of Pacific Street (Isidiro Ancheta, Owner). CEQA: San José 2020 General Plan Environmental Impact Report. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.**

C05-057 - District 4

(Continued from 8/16/05 – Item 11.7)

Documents Filed: Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. C05-057, dated July 27, 2005, recommending approval on the subject property.

Public Comment: Vice Mayor Chavez opened the public hearing. There was no testimony from the floor. Vice Mayor Chavez closed the public hearing.

Action: Upon motion by Council Member Reed, seconded by Council Member Yeager, and carried unanimously, the recommendation of the Planning Commission and the Planning Director was approved, and Ordinance No. 27534, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the North Side of Michigan Avenue, Approximately 200 Feet Southwesterly of Pacific Street to R-M Multiple Residence District", was passed for publication. (7-0-3. Absent: Chirco, Williams; Gonzales.)

11.5 (a) **PUBLIC HEARING ON THE APPEAL OF PLANNING COMMISSION'S CERTIFICATION OF AN Environmental Impact Report for the Goble Lane Mixed Use Development for a Planned Development Rezoning of 29.5 gross acres located at the southwest corner of Monterey Road and Goble Lane. CEQA: Resolution to be adopted. Director of Planning, Building and Code Enforcement and Planning Commission recommend the City Council certify the Environmental Impact Report prepared for the project and find it in compliance with the requirements of CEQA. (6-0-1; Pham absent)**

Action: Dropped.

- 11.5 (b) **Approval of an ordinance on Planned Development Rezoning from R-MH Mobilehome Park, LI Light Industrial and HI Heavy Industrial Zoning Districts to A(PD) Planned Development Zoning District, to allow up to 969 single-family and multi-family residential units and approximately 18,000 square feet of commercial space on a 29.5 acre site located at the southwest corner of Monterey Road and Goble lane (Ernest L. and Thelma W. Goble, et al., Owners). CEQA: Resolution to be adopted. Director of Planning, Building and Code Enforcement and Planning Commission recommend approval. (4-2-1; Levy, Zito opposed; Pham absent). (Planning Building and Code Enforcement)**
PDC02-066 - District 7

Documents Filed: (1) Memorandum from Mayor Gonzales, dated August 26, 2005, recommending approval of the Staff recommendation with additional direction. (2) Report of the Staff of the Department of Planning, Building and Code Enforcement on Project File No. PDC02-066, dated June 27, 2005, recommending approval on the subject property. (3) Memorandum from Planning Commission Secretary Stephen Haase, dated August 18, 2005, transmitting the recommendation of the Planning Commission. (4) Proof of Publication of Notice of Public Hearing, executed on August 19, 2005, submitted by the City Clerk.

Public Comment: Vice Mayor Chavez opened the public hearing. Anthony Ho, Roem Development, representing the Applicant, and Robert Enumi spoke in favor of the project. Vice Mayor Chavez closed the public hearing.

Motion: Council Member Campos moved approval of the Staff recommendation, and Mayor Gonzales' memorandum and read into the record, "The Final EIR for this proposed project identifies significant and unavoidable environmental impacts however, as described in more detail in our proposed resolution of the EIR findings for this item there is no feasible way to lessen or avoid the significant effects and approval of this proposed rezoning is anticipated to result in several benefits to our City. All of these benefits outweigh the significant unavoidable environmental impacts identified in the Final EIR of this project". Council Member Pyle seconded the motion.

Discussion followed regarding the proposed soundwall, landscaping and dust. Council Members LeZotte and Cortese offered some suggestions, as outlined in the action below.

Action: On a call for the question, the motion carried unanimously, and Ordinance No. 27535, entitled: "An Ordinance of the City of San José Rezoning Certain Real Property Situated on the Southwest Corner of Monterey Road and Goble Lane to A(PD)" was passed for publication and CEQA Resolution No. 72877, entitled: "A Resolution of the Council of the City of San José Making Certain Findings Concerning Impacts and Mitigation Measures Associated with the Goble Lane Mixed Use Development Planned Development Rezoning, for Which an

11.5 (b) (Cont'd.)

Environmental Impact Report (EIR) has been Prepared in Accordance with the California Environmental Quality Act (CEQA)”, was adopted, and the memorandum from Mayor Gonzales was approved, with one revision to Item (4): Staff was directed to implement the following requirements: (1) Along the south and west property lines, require the buildings to have triple pane windows and 2 x 6 wall construction. (2) Stucco walls and concrete or clay roofs on all buildings within the project. (3) Alter modules along shared property line with Chateau la Salle so that the building modules alternate with existing mobile homes. (4) Eight foot sound wall along the western side and a *not to exceed* 15 foot sound wall along the southern property line. Sound walls should be heavily landscaped with flowers, quick growing vines and 25 gallon trees. *Staff to study noise, shading and dust in reference to the height and type of sound wall along the southern property line.* (5) Direct the Planning Staff to include a contiguous park consistent with the City’s park acreage per capita requirements. (6) Work with Planning Staff during the Planned Development permit stage to reconfigure units along the southern and western sides to create a 25 foot setback on both sides. (7) Developer is required to notify and disclose to future tenants (renters and buyers) regarding the presence of the neighboring rock crushing facility. (8) Developer is required to provide the above notice and maintain written evidence that each such notice was provided to the tenants so that the City can review them upon reasonable request. (7-0-3. Absent: Chirco, Williams; Gonzales.)

COMMUNITY & ECONOMIC DEVELOPMENT

4.4 Acceptance of the staff report and provide direction to staff to either:

- (a) Proceed with negotiations with the Gardner Family Health Network and Cornerstone Affiliates/Greystone Communities/American Baptist Homes of the West to create a joint development plan for a facility providing comprehensive outpatient health services, and a state of the art continuing care retirement community; or**
- (b) Prepare a work plan for a stakeholder based community planning process for the San José Medical Center site and surrounding properties on East Santa Clara Street to be brought back to City Council for approval in ninety days.**

CEQA. Not a Project. (Economic Development)

(Deferred from 8/16/05 – Item 4.3 and 8/23/05 – Item 4.4)

Documents Filed: (1) Memorandum from Vice Mayor Chavez and Council Members Campos and Cortese, dated August 29, 2005, recommending acceptance of the Staff report with additional direction. (2) Memorandum from Director of Economic Development Paul Krutko, dated July 15, 2005, recommending acceptance of the report. (3) Staff presentation of the San José Medical Center Request for Qualification and Recommended Next Steps, dated August 30, 2005.

4.4 (Cont'd.)

Director of Economic Development Paul Krutko presented an overview of the San José Medical Center Request for Qualifications, recommended next steps and options, as outlined in the Staff report.

Vice Mayor Chavez reviewed her memorandum which approved Option 2 and is summarized in the actions, below.

Motion: Council Member Cortese moved approval the Staff Report and Vice Mayor Chavez' memorandum, including her remarks and summary. Council Member Campos seconded the motion.

Public Comments: Beth Shafran-Mukai, Campus Community Association, Monica Smith Brown, Julie O'Strowski, Paul Velsey, Rosylin Dean, San José Medical Center Coalition, Jean Suyenaga, United Healthcare Workers, Bob Brownstein, Conrad Barrientos, Bob Leininger, Les Levitt, Campus Community Association, Philip Bump, South Bay Labor Council, Bill Gilbert, HCA, Manny Diaz, Marc Boyd, Gerald Hunt, Healthcare for All California, Barbara Kempczinski, Don Gulardi, 13th Street NAC, Farris Kirk Johns, Darlene Wallach, Andy Reid, Pearl Caldwell, Jose Posadas, and Lorna Chang spoke in favor of Vice Mayor Chavez's recommendations and in support of the San José Medical Center.

Council Member Reed expressed support for the motion, however was not convinced there should be any rezoning on this property, but added that Vice Mayor Chavez's memorandum is a step in the right direction.

Council Member Yeager and Council Member LeZotte expressed support for the motion.

Action: On a call for the question, the motion carried unanimously, the report was accepted, with Staff directed to: (1) Immediately prepare a work plan for a stakeholder based community planning process for the San José Medical Center site and surrounding properties on East Santa Clara Street to be brought back to City Council for approval in forty five days (Option 2). (2) Include a funding strategy that ensures an open, public planning process managed by the City. (3) Include adjacent properties within the study area as appropriate. (4) Including, implementation goals should include: (a) Comprehensive outpatient health services facility (i.e. Gardener Health Clinic) to meet the basic, low cost healthcare needs of the surrounding neighborhoods (as recommended by Staff) and identifying 5 acres for future expansion into a full service hospital on site (including helipad). (b) Opportunities for range of housing at various income levels, including a continuing care retirement community (i.e. proposal from Cornerstone Affiliates/Greystone Communities/American Baptist Homes of the West). (c) Fulfilling the Open Space requirement generated by any new housing units on site (as specified in the Park Dedication Ordinance). (d) Relocation of Fire Station #8.

ADJOURNMENT

The Council of the City of San José adjourned in memory of two fine City employees: Jan Elix, in Parks, Recreation and Neighborhood Services for 31 years. Jan served the City and disabled community with an uncommon dignity and dedication, and Dorothy Jung, a Legal Administrative Assistant for the Office of the City Attorney since 1997.

The Council of the City of San José adjourned at 9:06 p.m.

CINDY CHAVEZ, VICE MAYOR

ATTEST:

LEE PRICE, CMC, CITY CLERK

smd/8-30-05min